



## CITY OF SAN JOSÉ, CALIFORNIA

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### SAN JOSÉ ELECTIONS COMMISSION

Thomas Mertens, Chair  
Jang Badhesha  
Michael Smith  
Tony Ventura

### SAN JOSÉ ELECTIONS COMMISSION MEETING MINUTES November 26, 2007

#### I CALL TO ORDER

The Members of the San José Elections Commission convened at 5:34 p.m. in Room W-242 of City Hall, 200 E. Santa Clara Street, San José, CA 95113.

PRESENT: COMMISSIONERS de Funiak, Badhesha Smith, Ventura and Mertens

ABSENT: COMMISSIONERS None

STAFF PRESENT: Chief Deputy City Attorney Norm Sato  
Senior Deputy City Attorney Lisa Herrick  
City Clerk Lee Price  
Deputy City Clerk Michelle Radcliffe

#### II DISCUSSION ITEMS

A.1 Review and consider response to Request for Qualifications (RFQs) for an Elections Audit Consultant (City Attorney/City Clerk)

a. San Jose State University

Document filed: Subcommittee (Badhesha/Smith) evaluation of Elections Consultant dated November 20, 2007.

Chair Mertens stated that Phil Trownstine was not in attendance due to a family emergency. Commissioner Smith summarized the subcommittee recommendation. Commissioner Badhesha stated that the subcommittee still needs to work closely with Mr. Trownstine to fully define the scope of the RFQ and to develop a timeframe with specific milestones to complete.

A.2 Selection of an Elections Audit Consultant

Action: Upon motion by Commission Smith, seconded by Commissioner Ventura, and unanimously passed, the Commission adopted the subcommittee recommendation as outlined and authorized the City Attorney and City Clerk to execute an agreement with San Jose State University.

B.1 Review and consider response fro Request for Qualifications (RFQs) for Investigator/Evaluator

Documents Filed: 1) Subcommittee (de Funiak/Ventura) evaluation of Investigator/Evaluator dated November 26, 2007; and 2) Correspondence from James F. Sweeney of Sweeney and Greene, LLP dated November 21, 2007.

Commissioner de Funiak gave an overview of the subcommittee recommendation. Commissioner Ventura commended Hanson Bridgett Marcus Vlahos Rudy LLP for their work product and stated that using a larger firm would be beneficial because there are added resources to help with the workload. Chair Mertens was impressed with Sweeney and Greene's background and spoke in favor of trying something different like using another firm or having two firms work with the Commission. Discussion ensued. Commissioner Smith recommended that Mr. Sweeney be considered for the Legal Consultant to look at the audit results with Chair Mertens and Commissioner Badhesha concurring.

B.2 Selection of an Investigator/Evaluator

Action: Upon motion by Commissioner de Funiak, seconded by Commissioner Badhesha, and unanimously passed, the Commission adopted the subcommittee recommendation as outlined.

Chief Deputy Senior Attorney Norm Sato proposed a two-year agreement with the option to re-new for one or two years, not to exceed \$100,000.

Action: Upon motion by Commissioner Smith, seconded by Commissioner Badhesha, and unanimously passed, the Commission authorized the City Attorney and City Clerk to execute a two-year agreement with Hanson Bridgett Marcus Vlahos Rudy, LLP not to exceed \$100,000.

- C. Discussion of authorization to the Chair to initiate and work with the Commission investigator on investigations and monitoring compliance with Ethics Ordinances

Chair Mertens led discussion about the Chair's ability to initiate research on an investigation. He expressed concern about evidence "disappearing" prior to an Elections Commission meeting. Chief Deputy City Attorney Sato expressed concern about the Chair or any other Commission members becoming active in a complaint investigation and advised that the Commission should rely on independent investigators. Discussion ensued. Chief Deputy City Attorney Sato stated he will look at the regulations to see if there is anything that could be added that would allow for proactive involvement by any member of the Commission.

V PUBLIC COMMENT

There were none.

VI ADJOURNMENT

The meeting adjourned at 7:08 p.m.

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THOMAS M. (TOM) MERTENS, CHAIR

ATTEST:

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LEE PRICE, MMC  
CITY CLERK and SECRETARY TO THE COMMISSION